

**This order is SIGNED.**

**Dated: September 5, 2019**

  
KEVIN R. ANDERSON  
U.S. Bankruptcy Judge



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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

In re:

MICHAEL M. SMITH,

Debtor.

Bankruptcy Number: 17-22743

Chapter 7

FIRST AMERICAN TITLE  
INSURANCE COMPANY and  
FIRST AMERICAN TITLE  
COMPANY, LLC,

Plaintiffs,

vs.

MICHAEL M. SMITH,

Defendant.

Adversary Proceeding No. 17-02076

Hon. Kevin R. Anderson

ORDER MEMORANDUM DECISION RE: (1) ATTORNEY'S FEES  
AND COSTS AWARDED IN DISTRICT COURT JUDGMENT;  
(2) ATTORNEY'S FEES AND COSTS INCURRED BY PLAINTIFFS IN  
ADVERSARY PROCEEDING; AND (3) POST-JUDGMENT INTEREST

First American Title Insurance Company and First American Title Company, LLC  
(collectively "First American") filed a nondischargeability complaint against Michael M. Smith

(“Debtor”) alleging breach of fiduciary duty under 11 U.S.C. § 523(a)(4) and willful and malicious injury under § 523(a)(6). On July 10, 2019 the Court entered a Memorandum Decision Finding that Defendant’s Debt to Plaintiffs is Non-Dischargeable Under 11 U.S.C. § 523(a)(6)<sup>1</sup> and an accompanying Order.<sup>2</sup>

For the reasons set forth in the Memorandum Decision,<sup>3</sup> including the Findings of Fact and Conclusions of Law entered on September 5, 2019, which the Court incorporates herein by reference, the Court hereby **ORDERS**:

1. First American’s attorney’s fees and costs awarded to First American by the District Court are nondischargeable pursuant to 11 U.S.C. § 523(a)(6). The nondischargeable amount of First American’s attorney’s fees and costs awarded to First American by the District Court is limited to \$3,097,816.36.
2. The rate of interest set forth in the District Court judgment<sup>4</sup> shall remain the rate of interest on the nondischargeable debt owed to First American by the Debtor and shall continue to accrue irrespective of the Debtor’s bankruptcy filing.
3. First American’s request that attorney’s fees and costs incurred in prosecuting Adversary Proceeding No. 17-02076 be nondischargeable is denied.
4. First American may submit a bill of costs arising from the prosecution of Adversary Proceeding 17-02076 pursuant to Bankruptcy Rule 7054(b)(1).

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<sup>1</sup> Case No. 17-02076, ECF No. 48. An Amended Memorandum Decision was entered on July 25, 2019 to correct an unprintable footnote in the original decision. ECF No. 50. All subsequent references to the docket will be to Case No. 17-02076 unless otherwise specified.

<sup>2</sup> ECF No. 49.

<sup>3</sup> Case No. 17-02076, ECF No. 55.

<sup>4</sup> ECF No. 53, Exhibit 1.

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**DESIGNATION OF PARTIES TO RECEIVE NOTICE**

Service of the foregoing MEMORANDUM DECISION RE: (1) ATTORNEY'S FEES AND COSTS AWARDED IN DISTRICT COURT JUDGMENT; (2) ATTORNEY'S FEES AND COSTS INCURRED BY PLAINTIFFS IN ADVERSARY PROCEEDING; AND (3) POST-JUDGMENT INTEREST shall be served to the parties and in the manner designated below.

**By Electronic Service:** I certify that the parties of record in this case as identified below, are registered CM/ECF users:

- Gregory J. Adams gadams@mbt-law.com
- Tim Dance tdance@swlaw.com,  
docket\_slc@swlaw.com;sniesen@swlaw.com;csmart@swlaw.com
- Matthew L. Lalli mlalli@swlaw.com
- Mark O. Morris mmorris@swlaw.com, wkalawaia@swlaw.com;csmart@swlaw.com
- Jeremy C. Sink jsink@mbt-law.com

**By U.S. Mail:** In addition to the parties of record receiving notice through the CM/ECF system, the following parties should be served notice pursuant to Fed. R. Civ. P. 5(b).

None.